

RECEIVED
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
SEP 14 PM 2:30
S.D. OF N.Y.

Donald J. Potter

Write the full name of each plaintiff.

No. _____

(To be filled out by Clerk's Office)

-against-

COMPLAINT

(Prisoner)

People of The State of New York

Christopher M. Hults Detective;

Peter Greene Judge;

Robert Demano Assistant District Attorney;

Do you want a jury trial?

☐ Yes ☒ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Donald J. Potter
First Name Middle Initial Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Din#19A4459 NYSID#08272556M
Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Riverview Correctional Facility
Current Place of Detention

1110 Tibbits Drive, P.O. Box 158
Institutional Address

Ogdensburg N.Y. 13669
County, City State Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

- ☐ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☒ Convicted and sentenced prisoner
☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: Christopher M. Hults 0537
 First Name Last Name Shield #
Detective
 Current Job Title (or other identifying information)
Town of Wallkill Justice Court 99 Tower Drive,
 Current Work Address
Middletown, N.Y. 10941-2055
 County, City State Zip Code

Defendant 2: Peter Greene
 First Name Last Name Shield #
Judge
 Current Job Title (or other identifying information)
Town of Wallkill Justice Court 99 Tower Drive,
 Current Work Address
Middletown, N.Y. 10941-2055
 County, City State Zip Code

Defendant 3: [REDACTED] [REDACTED]
 First Name Last Name Shield #
[REDACTED] [REDACTED] [REDACTED]
 Current Job Title (or other identifying information)
[REDACTED]
 Current Work Address
[REDACTED]
 County, City State Zip Code

Defendant 4: Robert Demonio
 First Name Last Name Shield #
Assistant District Attorney
 Current Job Title (or other identifying information)
255 - 275 Main Street
 Current Work Address
Goshen, N.Y. 10924-1627
 County, City State Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: 110 Wells Farm Rd, Groshen, N.Y. 10924

Date(s) of occurrence: 10/22/2018 , 11/07/2018

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

On, October 20th, 2018, I was arrested in the city of Port Jervis for the crimes of Criminal Possession of a Controlled Substance in the 7th degree, Criminal Possession of Stolen Property in the 3rd degree, and Possession of Burglary Tools in the 5th degree.

I was arraigned that same day for those charges and again with lawyer and A.D.A present on the 22nd day of October 2018, for those charges.

While in custody at Orange County Jail I was being held for Grand Jury action when the Town of Wallkill Police Department charged plaintiff with Burglary in the 3rd degree and Grand Larceny in the 3rd degree on October 22nd, 2018 after being arraigned for the second time in Port Jervis local Criminal Court for initial charges of. 1, Possession of Stolen Property in the 3rd degree, 2, Possession of Burglary Tools in the 5th degree, and 3, Criminal Possession of a Controlled Substance in the 7th degree.

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Defendants may argue that plaintiff's claim of Due Process and false arrest, must fail due to the doctrine set forth in the Supreme Court's decision in Heck v. Humphrey, 512 U.S. 477 (1994). Or that plaintiff's ~~claim~~ False arrest claim for Burglary in the 3rd degree, Grand Larceny in the 3rd degree, Possession of Stolen Property in the 3rd degree and Possession of Burglary Tools in the 5th degree does not "Necessarily Imply the invalidity of

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>08/30/2021</u>		<u>Donald J. Potter</u>
Dated		Plaintiff's Signature
<u>Donald</u>	<u>J.</u>	<u>Potter</u>
First Name	Middle Initial	Last Name
<u>1110 Tibbits Drive</u>		<u>P.O. Box 158</u>
Prison Address		
<u>Ogdensburg,</u>	<u>N.Y.</u>	<u>13669</u>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 08/30/2021

Plaintiff never was arraigned for the charges of Burglary in the 3rd degree and Grand Larceny in the 3rd degree. Because Wallkill Police Department never filed the accusatory instrument with the local criminal court. These charges were added with the Grand Jury action that was pending for the offenses that occurred in Port Jervis for October 25th, 2018.

A criminal action must commence by the filing of an accusatory instrument with the local criminal court, pursuant to the provision section. 100.05 of the criminal procedure law of the state of New York.

A District Attorney must submit to a Grand Jury evidence concerning a felony allegedly committed by a defendant whom, on the basis of a felony complaint filed with a local criminal court of the county, except where indictment has been waived by defendant. Pursuant to the provision section. 190.55 of the criminal procedure law of the state of New York.

After hearing and examining evidence as prescribed in section. 190.55 a Grand Jury may indict a person for a offense as the local criminal court determines if the accusatory instrument is facially sufficient to establish reasonable cause to believe that defendant committed a crime.

Upon the arraignment the court, unless it intends immediately thereafter to dismiss the felony complaint and terminate the action, must issue a secure order for his future appearance pursuant to provision section. 180.10 sub. (b), of the criminal procedure law of the state of New York.

If it was determine whether the defendant is to be held for the action of a Grand Jury, District Attorneys are required of authorize to submit evidence to the Grand Jury under the following circumstances.

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Defendants may argue that plaintiff's claim of Due Process violations and false arrest, must fail due to the doctrine set forth in the Supreme Court's decision in Heck v. Humphrey, 512 U.S. 477 (1994). Furthermore, this claim of 4th, 5th and 14th Amendment violations does have enough evidence to support this case and plaintiff is not challenging his conviction he is challenging his United States Constitutional rights. See ~~Heck~~ Heck, 512 U.S. 487.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

Humiliation, Emotional Distress, and Psychological lost of work and home as well. As well as 4th, 5th, and 14th Amendment violations as an American citizen. Which result in deprivation of Federal and State ~~Constitution~~ Constitution.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

Plaintiff would like to respectfully ask this court to grant compensation of \$1,500,000 being the fact that ~~it is~~ it is cruel and excessive punishment according to the 8th Amendment of U.S.C.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

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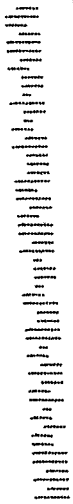
Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>09/11/2021</u>		<u>Donald Potter</u>
Dated		Plaintiff's Signature
<u>Donald</u>	<u>J.</u>	<u>Potter</u>
First Name	Middle Initial	Last Name
<u>1110 Tibbits Drive</u>		<u>P.O. Box 158</u>
Prison Address		
<u>Ogdensburg,</u>	<u>N.Y.</u>	<u>13669</u>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 09/11/2021

RIVERVIEW CORRECTIONAL FACILITY
P.O. BOX 158
OGDENSBURG, NEW YORK 13669

Donald Potter
Don# 9A-4459



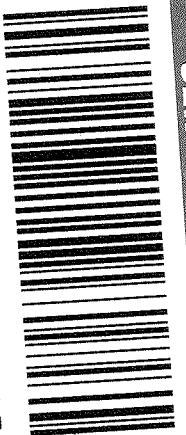
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CLERK'S OFFICE
SDNY

USM_{P3}
SDNY

United States District
Southern District of New York
500 Pearl Street
New York, NY 10007

PROSE

CERTIFIED MAIL



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RIVERVIEW
CORRECTIONAL
FACILITY

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